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EXAMINER				
CHAUHAN, LOREN B				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/824,282

Applicant(s)

ROTH, MARK L.

Examiner

Loren Chauhan

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Loren Chauhan/
/Lewis A. Bullock, Jr./
SPE, Art Unit 2193

Continuation of 11, does NOT place the application in condition for allowance because: In remarks applicant argues:

Lee does not teach or suggest a software documentation generator. Instead, Lee's method generates documentation for a product design. The source files of Lee define a product design, and they all originate from design tools [Abstract, [0017]]. Each source file in Lee is associated with a product design [Abstract, 00201. The method of Lee extracts comments from source files in order to generate product design documentation including the comments [[0003], [0006], claim 1], not to generate software documentation for a software program.

Examiner's response:

Examiner's respectfully disagrees. In general Lee's invention is directed to a method of automatically generating documentation from a variety of source files (paragraph [0003]). Further Lee does not limit its invention only for product designing source files as per applicant argument (see paragraph [0064]). Further it is known in the art that software source files are also generated from software developing tools such as Microsoft Visual Studio, Eclipse etc. which produces source files and using the method describe by Lee it can extract comments and produce documentation. Further, Applicants underlying principal is for extracting comments/information from source files; (see applicant's specification paragraph [0018]) and thus the principal taught by Lee, which also applicant agrees (see applicant's remarks on page 2, last 4 lines), corresponds to such and since Lee is applicable to any embodiment, it is thereby applicable to software documentation. See also claim 24, wherein each of the plurality of source files was generated from different source software, therefore a plurality of sources related to a software program (coming from a software program) are inputted, analyzed, and transformed into software documentation (HTML type output file).

In remarks applicant argues:

Lee does not teach or suggest inputting a plurality of sources related to a software program. The Examiner admits that the plurality of sources in Lee are not related to a software program. Examiner seeks to remedy this deficiency by asserting that it would be obvious "to use the invention of Lee to produce the documentation for software products that can generate a documentation file from different types of source files." Examiner makes this assertion without offering any teaching, suggestion, motivation, or any other reason beyond his own opinion, stated with hindsight, that it would be obvious to use the invention of Lee in the manner proposed. No evidence of record has been provided to support this assertion. Furthermore, the Examiner suggests producing "documentation for software products that can generate a documentation file from different types of source files," which does not coincide with the limitations set forth in Applicant's claim. Accordingly, the Examiner has failed to establish a prima facie case of obviousness.

Examiner's response:

Examiner respectfully disagrees. It is true that in the disclosure Lee does not explicitly teach that source files are related to a software program. However, Lee illustrate its invention by giving example of Hardware Description Language (HDL) source files generated by HDL design tools (paragraph [0017]) and Lee does not limit its invention only to those files (see paragraph [0064]: MPEP 2123 [R-5] section II) details that disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure. Therefore, since Lee's teachings are applicable to any embodiment, Lee's teachings apply to software documentation. Thus examiner has not used any hindsight and has not failed to establish prima facie case of obviousness. In addition, Lee teaches that source files are generated from different source software (see claim 24). The claims do not outline how the plurality of sources are related to the software program or how it is transformed for the software program, so an interpretation of receiving source information from software for documentation processing meets the language of the claims also.

In remarks applicant argues:

Lee does not teach or suggest that the plurality of sources include at least one of a software library documentation file and software program source code. The Examiner cites paragraphs [0017] and [0020] as teaching this aspect of Applicant's claim. However, paragraph [0017] describes hardware design tools which create design source files that can be fed into the documentation tool to produce design documentation. Paragraph [0020] describes how the documentation tool extracts comments from the design source files, responsive to a configuration file containing parameters that define attributes of the product design associated with each source file. Neither paragraph makes any reference either to a software library documentation file or to software program source code. In connection with this aspect of the Applicant's claim, the Examiner writes "e.g. a software program that operates on the plurality of source files and parameters define the type of source file." It is not clear what the Examiner means by this. Lee does state in paragraph [0017] that the documentation tool itself is "a software program that operates on the plurality of source files regardless of the originating design tool." But this has no bearing on the limitation of Applicant's claim reciting that the plurality of sources include at least one of a software library documentation file and software program source code. Applicant notes a very important distinction arising in connection with this aspect of claim 1. The term "software program source code" is well-known by those skilled in the art to mean source code written in a programming language, and subsequently used as source input into an already executable program, such as a language compiler, to produce a new executable software program derived from the source code. It is well known that software program source code is written in order to create a new executable software program. For example, software program source code may be written in the C++ programming language for subsequent compilation by a C++ language compiling program into an executable software program. When Lee remarks that the documentation tool itself is "a software program that operates on the plurality of source files," Lee is not referring to "software program source code" in the well-known, canonical sense just described. The source files mentioned in Lee are never described as software program source code. To the contrary, the only example given in Lee is source files for a hardware circuit (ASIC). Neither, as the Examiner admits on page 4, paragraph 7, does Lee ever indicate a software library documentation file.

Examiner's response:

Examiner respectfully disagrees. Lee gives an example in paragraph [0017] that Hardware Description Language source files such as VHDL and Verilog is fed to documentation generator of Lee and extracts comments (paragraph [0018]) from those files. Further it is known that VHDL and Verilog are programming languages that has compiler to produce a new executable files same as done with any programming languages such as C++ or Java for example. Further Lee only shows by an example that it is using HDL files and its invention is not limited to only those files thus Lee inherently teaches plurality of source files includes a software library documentation file and software program source code (paragraph [0003] i.e. variety of source files).

In remarks applicant argues:

Lee does not teach or suggest the software documentation generator analyzes the sources to identify a type of each one; extracts information from the sources based on the type of the source and aggregates the extracted information into a uniform format.

Examiner's response:

Examiner respectfully disagrees. Lee in paragraph [0020] teaches that software documentation tool identifies the source files types and comment character definition etc. further in paragraph [0029] and [0030] Lee teaches that tool extracts comments from identified source files based on configuration files and associated parameters. Furthermore, Lee in paragraphs [0051] and [0052] shows that the tool generates output files that aggregates extracted comments in different formats such as Portable Document Format (PDF), HTML and the like. Thus teaches claimed limitation.

Examiner has sufficiently answered to remarks filled by applicant and examiner's position remains unchanged. Further applicant is advised to look at patent no. 6,507,855 that explicitly teaches extracting data from a software program..